

BOWER LAW GROUP, PC
David E. Bower (SBN 119546)
600 Corporate Pointe, Suite 1170
Culver City, California 90230
Tel. 213.446.6652
dbower@bowerlawgroup.com

ADEMI LLP
Shpetim Ademi
John D. Blythin
Jesse Fruchter
3620 East Layton Avenue
Cudahy, WI 53110
Tel. 414.482.8000
jblythin@ademilaw.com

Attorneys for Plaintiff

**PATTERSON BELKNAP WEBB &
TYLER LLP**

Henry J. Ricardo (admitted *pro hac vice*)
hjricardo@pbwt.com
Jane Metcalf (admitted *pro hac vice*)
jmetcalf@pbwt.com
1133 Avenue of the Americas
New York, New York 10036
Telephone (212) 336-2000
Facsimile (212) 336-2222

LAFAYETTE & KUMAGAI LLP

Gary T. Lafayette (SBN 88666)
glafayette@lkclaw.com
Brian H. Chun (SBN 215417)
bchun@lkclaw.com
1300 Clay Street, Suite 810
Oakland, California 94612
Telephone (415) 357-4600
Facsimile (415) 357-4605

Attorneys for Defendants InComm Financial Services, Inc. and Pathward, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN SMITH

Plaintiff,

VS.

INCOMM FINANCIAL SERVICES, INC. AND
PATHWARD, N.A.

Defendants.

Case No. 5:23-CV-4687-BF

STIPULATED REQUEST FOR
ORDER ADJOURNING DEADLINES
FOR CASE MANAGEMENT
STATEMENT AND CASE
MANAGEMENT CONFERENCE;
~~[PROPOSED] ORDER AS MODIFIED~~
BY THE COURT

Judge: Hon. Beth Labson Freeman

Date: April 4, 2024
Time: TBD
Place: Courtroom 3

STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

1 Pursuant to Local Rules 6-1(b), 6-2, and 7-12 of the Local Rules of the United States District
2 Court for the Northern District of California, Plaintiff Kevin Smith (“Plaintiff”) and Defendants
3 InComm Financial Services, Inc. and Pathward, N.A. (“Defendants”), through their counsel jointly
4 request an extension of the deadline to file their joint Case Management Statement and an
5 adjournment of the Case Management Conference currently schedule for April 4, 2024.

6 WHEREAS, Plaintiff filed his Complaint, Dkt. 1, on September 12, 2023;

7 WHEREAS, Plaintiff and Defendants entered a stipulation, Dkt. 9, on November 16, 2023
8 to extend the time for Defendants to respond to the Complaint to December 15, 2023;

9 WHEREAS, Defendants filed their motion to dismiss, Dkt. 22, on December 15, 2023, with
10 a hearing date of April 18, 2024;

11 WHEREAS, the Court set a Case Management Conference date of April 4, 2024, with the
12 parties’ joint Case Management Statement to be due on March 28, 2024, Dkt. 15;

13 WHEREAS, Plaintiff advised Defendants in March 2024 that he intended to seek leave to
14 file an Amended Complaint, in lieu of filing an opposition to Defendants’ initial motion to dismiss;

15 WHEREAS, the parties stipulated to, Dkt. 30, and the Court approved, Dkt. 31, a revised
16 schedule, providing for Plaintiff to file an Amended Complaint by March 21, 2024, with
17 Defendants’ responses to be filed by May 20, 2024;

18 WHEREAS, the March 28 Case Management Statement deadline remains in effect;

19 WHEREAS, the current schedule would thus require the parties to file the Case Management
20 Statement only one week after the filing of the Amended Complaint, and well before Defendants
21 have filed any response to the Amended Complaint;

22 WHEREAS, Defendants have suggested, and Plaintiff has agreed, that postponing the Case
23 Management Statement filing deadline and Case Management Conference date until the Amended
24 Complaint and Defendants’ responses are filed will facilitate a more productive discussion of the
25 issues to be addressed by the Case Management Statement between counsel and a more effective
26 presentation of any issues to be resolved to the Court;

27
28 STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT
STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

NOW, THEREFORE, IT IS HEREBY STIPULATED AND REQUESTED by and between the parties, through their respective attorneys of record, that the Court enter an Order providing that:

- The Case Management Conference shall be set (i) for the same day as the hearing on any dispositive motion(s) filed by Defendant(s) regarding the Amended Complaint; or (ii) if no such motion is filed, for June 6, 2024, or any date thereafter that is convenient for the Court; and
- The Case Management Statement shall be due one week before the Case Management Conference.

DATED: March 19, 2024

/s/ Henry J. Ricardo

PATTERSON BELKNAP WEBB & TYLER LLP
Henry J. Ricardo (admitted pro hac vice)
hjricardo@pbwt.com
Jane Metcalf (admitted pro hac vice)
jmetcalf@pbwt.com
1133 Avenue of the Americas
New York, New York 10036
Telephone (212) 336-2000
Facsimile (212) 336-2222

LAFAYETTE & KUMAGAI LLP
Gary T. Lafayette (SBN 88666)
glafayette@lkclaw.com
Brian H. Chun (SBN 215417)
bchun@lkclaw.com
1300 Clay Street, Suite 810
Oakland, California 94612
Telephone (415) 357-4600
Facsimile (415) 357-4605

Attorneys for Defendants

DATED: March 19, 2024

/s/ John D. Blythin

ADEMI LLP
John D. Blythin (admitted pro hac vice)
Shpetim Ademi
Jesse Fruchter
3620 East Layton Avenue
Cudahy, WI 53110
Tel. 414.482.8000
jblythin@ademilaw.com

BOWER LAW GROUP, PC
David E. Bower (SBN 119546)

STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

